

Interpretation of T.C.A. § 3-6-301(8)  
as to whether an employer of a lobbyist  
must register for a lobbyist that was not  
directly retained or authorized to  
provide lobbying services.

## **INTRODUCTION**

The following Advisory Opinion is in response to a written inquiry from Mr. Buckner Wellford, on behalf of Generations, Inc. ("Generations"), whether it must register as an employer of a lobbyist for a lobbyist that Generations did not directly retain or authorize to provide lobbying services.

In response to the inquiry, the Tennessee Ethics Commission ("Commission") concludes that because Generations did not explicitly or generally authorize its registered lobbyist to engage an additional lobbyist to assist him with lobbying, Generations' relationship with the additional lobbyist does not meet the definition of an "employer of a lobbyist" under T.C.A. § 3-6-301(8), and Generations is not required to register with the Commission as the employer of the additional lobbyist.

## **BACKGROUND**

Mr. Wellford states that Generations is a non-profit social services organization that serves as a management company for another non-profit organization, Meritan, Inc. On April 27, 2007, Generations registered with the Commission as the employer of a lobbyist, Ronald Redwing of The Redwing Group. Generations subsequently learned that Mr. Redwing had, without Generations' authorization, engaged another lobbyist to assist him with his lobbying efforts on behalf of Generations. Mr. Wellford states that Generations has not agreed to pay the lobbyist engaged by Mr. Redwing.

## **DISCUSSION**

Is Generations required to register as an employer of a lobbyist for a lobbyist it did not retain or authorize, and to whom Generations provides no compensation?

T.C.A. § 3-6-301(8) states, in part:

"Employer of a lobbyist" or "employer" means any person or entity that *employs, retains or otherwise arranges for* a lobbyist to engage in lobbying on behalf of the person or entity *for compensation*.

"Employer of a lobbyist" or "employer" specifically includes any such person or entity notwithstanding the lobbyist's status as an employee, agent, contractor, subcontractor or other representative lobbying on behalf of such person or entity for compensation. . . [emphasis added]

In order to fall within the definition of an "employer," the entity must "employ, retain or otherwise arrange for" an individual to engage in lobbying on behalf of the entity, and must additionally provide compensation to the individual for these services.

Generations entered into an agreement with Mr. Redwing to provide lobbying services and subsequently registered as Mr. Redwing's employer. There is no indication from the facts provided by Mr. Wellford that Generations' agreement with Mr. Redwing included an explicit or generalized authorization for Mr. Redwing to engage an additional lobbyist to assist him. Rather, Mr. Wellford states that Generations

did not authorize the engagement of the additional lobbyist. It appears that Generations did not “employ, retain or otherwise arrange for” this lobbyist’s services because it did not explicitly or generally authorize its lobbyist to engage an additional lobbyist. Although the definition of “employer” specifically includes services provided by contracted and subcontracted lobbyists, those relate to contracts directly entered into by the employer and subcontracts authorized by the employer. In addition, Generations has no agreement to provide compensation to the lobbyist engaged by Mr. Redwing.

Accordingly, Generations’ relationship to the lobbyist engaged by Mr. Redwing does not meet the foregoing statutory definition of an “employer of a lobbyist” and Generations is not required to register as the employer of the additional lobbyist.

### **CONCLUSION**

Under the facts presented to the Commission, Generations did not explicitly or generally authorize its registered lobbyist to engage an additional lobbyist to assist him with lobbying on behalf of Generations. Generations did not employ, retain or otherwise arrange for the additional lobbying services, nor did Generations contract with or authorize the subcontract with the additional lobbyist. Generations has no agreement to provide compensation to this lobbyist. Generations’ relationship with the additional lobbyist does not meet the definition of an “employer of a lobbyist” under T.C.A. § 3-6-301(8), and Generations is not required to register with the Commission as the employer of this lobbyist.

The Commission notes, however, that this Opinion does not address the issue of under what circumstances an employer may be required to register subcontracted lobbyists when the employment agreement tacitly or explicitly authorizes the engagement of such lobbyists. Generations is therefore encouraged to request a new Opinion should the terms of its contract with Mr. Redwing or other lobbyist or lobbying firm change in the future.

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